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CHRISTOPHER GALLIVAN

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

CHRISTOPHER GALLIVAN,  
Individually and On Behalf of All  
Others Similarly Situated,  
Plaintiff,

vs.

DCN HOLDINGS, INC. dba  
ACCOUNTSRECEIVABLE.COM,  
Defendant.

) Case No.

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**CLASS ACTION COMPLAINT  
FOR DAMAGES AND DEMAND  
FOR JURY TRIAL**

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1 Plaintiff, CHRISTOPHER GALLIVAN (“Plaintiff”), on behalf of himself  
2 and all others similarly situated, alleges the following upon information and belief  
3 based upon personal knowledge:

4 **NATURE OF THE CASE**

5 1. Plaintiff brings this action for himself and others similarly situated  
6 seeking damages and any other available legal or equitable remedies resulting from  
7 the illegal actions of DCN HOLDINGS, INC. dba  
8 ACCOUNTSRECEIVABLE.COM, (“Defendant” or “DCN”), in negligently,  
9 knowingly, and/or willfully communicating with Plaintiff and failing to provide  
10 Plaintiff with meaningful disclosure of the nature or purpose of Defendant’s calls  
11 in violation of the Fair Debt Collection Practices Act, *15 U.S.C. § 1692 et seq.*  
12 (“FDCPA”).

13 **JURISDICTION & VENUE**

14 2. Jurisdiction of this Court arises under *15 U.S.C. §1692k(d)*.

15 3. Venue is proper in the United States District Court for the Central  
16 District of California because Plaintiff, a resident of Los Angeles County, resides  
17 here and Defendant does business within the state of California and this Judicial  
18 District.

19 **PARTIES**

20 4. Plaintiff, CHRISTOPHER GALLIVAN (“Plaintiff”), is a natural  
21 person residing in Los Angeles, California and is a “consumer” as defined by the  
22 FDCPA, *15 U.S.C. §1692a(3)*.

23 5. At all relevant times herein, Defendant, DCN HOLDINGS, INC. dba  
24 ACCOUNTSRECEIVABLE.COM (“Defendant”), was a company engaged, by  
25 use of the mails and telephone, in the business of collecting a debt from Plaintiff  
26 which qualifies as a “debt,” as defined by *15 U.S.C. §1692a(5)*. Defendant  
27 regularly attempts to collect debts alleged to be due another, and therefore is a “debt  
28 collector” as defined by the FDCPA, *15 U.S.C. §1692a(6)*.

**FACTUAL ALLEGATIONS**

6. Within the one year preceding the filing of this complaint, Defendant contacted Plaintiff in an attempt to collect an alleged outstanding debt.

7. Defendant, in its attempt to collect the alleged debt owed by Plaintiff, placed telephone calls to Plaintiff's telephone number.

8. The debt Defendant is attempting to collect is an allegedly past due account stemming from personal medical services rendered to Plaintiff.

9. The alleged debt is a "debt" as defined by the FDCPA as the alleged debt is an individual consumer credit account used primarily for personal, family and/or household use/purposes.

10. Defendant called Plaintiff's telephone number in an attempt to collect the alleged debt and, when Plaintiff did not answer said calls, left a voice message on Plaintiff's telephone in connection with the collection of the aforementioned debt. In all, Defendant has left at least one (1) such voicemail on Plaintiff's telephone in connection with the collection of the alleged debt owed within the past one year from the date of filing.

11. On or about September 18, 2018, Defendant placed a call to Plaintiff's cellular telephone number in connection with collection of the alleged debt.

12. Plaintiff was unable to answer Defendant's September 18, 2018 call and as a result, Defendant's agent "Cassandra" left a voicemail message on Plaintiff's phone.

13. Defendant's voicemail message left, stated as follows:

"Hi this message is for Christopher Gallivan. This is Cassandra calling from the offices of Accounts Receivable. It's imperative that you contact me immediately regarding a serious issue involving yourself. Once you receive this message, I do expect a call back at

1 (321) 710-3530. When calling back I need you to reference file  
2 number 18308337.”  
3

4 14. The voice messages left by Defendant’s employee is a scripted  
5 message. Defendant has trained all of its employees to leave this identical message  
6 for all class members. It is Defendant’s internal policy and procedure to leave this  
7 scripted and re-approved message each and every time one of Defendant’s  
8 employees leaves a voicemail message on a consumer’s telephone relating to the  
9 collection of a debt.

10 15. Defendant’s voice message did not alert Plaintiff as to the purpose or  
11 reason for the Defendant’s telephone calls. Defendant’s voice message did not  
12 advise Plaintiff in any fashion as to the reason for Defendant’s call whatsoever (i.e.,  
13 that Defendant is calling in regards to the collection of a debt).

14 16. Defendant’s voice message did not alert Plaintiff that Defendant is a  
15 debt collector.

16 **CLASS ALLEGATIONS**

17 17. Plaintiff brings this action on behalf of himself and all others similarly  
18 situated, as a member of the proposed class (hereafter “The Class”) defined as  
19 follows:

20 All persons within the State of California who received  
21 any collection telephone call from Defendant, which  
22 resulted in Defendant leaving a voice message that is  
23 identical or substantially similar to those Plaintiff  
24 received from Defendant, which failed to inform said  
25 person of the nature or purpose for Defendant’s call, or  
26 that Defendant is a debt collector, within the one year  
27 prior to the filing of this Complaint

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1           18. Plaintiff represents, and is a member of, The Class, consisting of All  
2 persons within the State of California who received any collection telephone call  
3 from Defendant, which resulted in Defendant leaving a voice message that is  
4 identical or substantially similar to those Plaintiff received from Defendant, which  
5 resulted in Defendant leaving a voice message which failed to inform said person  
6 of the nature or purpose for Defendant's call, or that Defendant is a debt collector  
7 within the one year prior to the filing of this Complaint

8           19. Defendant, its employees and agents are excluded from The Class.  
9 Plaintiff does not know the number of members in The Class, but believes the Class  
10 members number in the hundreds, if not more. Thus, this matter should be certified  
11 as a Class Action to assist in the expeditious litigation of the matter.

12           20. The Class is so numerous that the individual joinder of all of its  
13 members is impractical. While the exact number and identities of The Class  
14 members are unknown to Plaintiff at this time and can only be ascertained through  
15 appropriate discovery, Plaintiff is informed and believes and thereon alleges that  
16 The Class includes hundreds of members. Plaintiff alleges that The Class members  
17 may be ascertained by the records maintained by Defendant.

18           21. Common questions of fact and law exist as to all members of the Class  
19 which predominate over any questions affecting only individual members of the  
20 Class. These common legal and factual questions, which do not vary between Class  
21 members, and which may be determined without reference to the individual  
22 circumstances of any Class members, include, but are not limited to, the following:

23           a. Whether Defendant has a policy of communicating with  
24 consumers in connection with the collection of an alleged debt wherein Defendant  
25 fails to inform said residents of the nature or purpose for Defendant's calls, or that  
26 Defendant is a debt collector;

27           b. Whether Defendant has communicated with consumers in  
28 connection with the collection of an alleged debt wherein Defendant fails to inform

1 said consumers of the nature or purpose for Defendant's calls, or that Defendant is  
2 a debt collector; and

3 c. The nature and extent of damages and other remedies to which  
4 the conduct of Defendant entitles the Class members.

5 22. As a person that received collection calls from Defendant wherein  
6 Defendant fails to inform him of the nature or purpose for Defendant's calls, or that  
7 Defendant is a debt collector, Plaintiff is asserting claims that are typical of The  
8 Class.

9 23. Plaintiff will fairly and adequately protect the interests of the members  
10 of The Class. Plaintiff has retained attorneys experienced in the prosecution of  
11 class actions.

12 24. A class action is superior to other available methods of fair and  
13 efficient adjudication of this controversy, since individual litigation of the claims  
14 of all Class members is impracticable. Even if every Class member could afford  
15 individual litigation, the court system could not. It would be unduly burdensome  
16 to the courts in which individual litigation of numerous issues would proceed.  
17 Individualized litigation would also present the potential for varying, inconsistent,  
18 or contradictory judgments and would magnify the delay and expense to all parties  
19 and to the court system resulting from multiple trials of the same complex factual  
20 issues. By contrast, the conduct of this action as a class action presents fewer  
21 management difficulties, conserves the resources of the parties and of the court  
22 system, and protects the rights of each Class member.

23 25. The prosecution of separate actions by individual Class members  
24 would create a risk of adjudications with respect to them that would, as a practical  
25 matter, be dispositive of the interests of the other Class members not parties to such  
26 adjudications or that would substantially impair or impede the ability of such non-  
27 party Class members to protect their interests.

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1 as follows:

- 2 a) Placing telephone calls without providing meaningful
- 3 disclosure of the caller's identity (§1692d(6));
- 4 b) Failing to advise a consumer in all subsequent
- 5 communications that Defendant is a debt collector
- 6 (§ 1692e(11)); and
- 7 c) Failing to notify Plaintiff during the initial communication
- 8 with Plaintiff that the communication was an attempt to
- 9 collect a debt and any information obtained would be used
- 10 for that purpose (§ 1692e(11));

11 30. Plaintiff alleges that to the extent that Defendant's actions, counted  
12 above, violated the FDCPA, those actions were done knowingly and willfully.

13 31. As a direct and proximate result of Defendant's violations of the  
14 FDCPA, *15 U.S.C. § 1692 et seq.*, Plaintiff and the members of the Class have  
15 suffered injury, and may recover from Defendant up to one thousand dollars  
16 (\$1,000.00) in statutory damages in addition to actual damages and reasonable  
17 attorneys' fees and costs pursuant to *15 U.S.C. § 1692k*.

18 32. The violations of the FDCPA, *15 U.S.C. § 1692 et seq.*, described  
19 herein present a continuing threat to members of the Class and members of the  
20 general public in that Plaintiff is informed and believes and thereon alleges that  
21 Defendant continues to engage in these practices, and will not cease doing so unless  
22 and until forced to do so by this Court.

23 **PRAYER FOR RELIEF**

24 Wherefore, Plaintiff respectfully requests the Court grant Plaintiff and The  
25 Class members the following relief against Defendant:

- 26 1. That this action be certified as a class action on behalf of The Class
- 27 and Plaintiff be appointed as the representative of The Class;
- 28 2. That Plaintiff's counsel be appointed Class Counsel in representation



1 of The Class;

- 2 3. For statutory damages up to \$1,000.00 per class member, or of  
3 \$500,00.00 or 1% of Defendant's net worth, whichever is the lesser,  
4 pursuant to *15 U.S.C. § 1692k*;
- 5 4. For reasonable attorneys' fees and costs of suit pursuant to *15 U.S.C.*  
6 *§ 1692k*;
- 7 5. For such further relief as this Court deems necessary, just, and proper.  
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10 Respectfully Submitted,  
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13 Date: January 8, 2019

**MARTIN & BONTRAGER, APC**

14 By: /s/ Nicholas J. Bontrager  
15 Nicholas J. Bontrager  
16 Attorneys for Plaintiff  
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